

EXHIBIT 1

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February 21, 2024

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

James Schladen
Gerard Munera
Catherine Munera
Emmanuelle VanVleet
Eric Bucklin
Byron Bjork
Arcadia, Inc./Arcadia Products, LLC
2301 E Vernon Avenue
Vernon, CA 90058

Michael Kuta
Eric Walter
Michelle Shepston
Arcadia Products, LLC
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Broomfield, CO 80021

Daniel Jin
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2665 Leonis Blvd
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Byron Bjork
Arcadia, Inc./Arcadia Products, LLC
3225 E Washington Blvd
Vernon, CA 90058

CT Corporation
Agent for Service of Process
Amanda Garcia
330 N Brand Blvd
Glendale, CA

**Re: NOTICE OF VIOLATIONS AND INTENT TO FILE SUIT UNDER THE
FEDERAL WATER POLLUTION CONTROL ACT (“CLEAN WATER ACT”)
(33 U.S.C. §§ 1251 *et seq.*)**

Dear James Schladen, Gerard Munera, Catherine Munera, Emmanuelle VanVleet, Erick Bucklin, Byron Bjork, Michael Kuta, Eric Walter, Michelle Shepston, Daniel Jin, and Amanda Garcia:

This firm represents Los Angeles Waterkeeper (“LA Waterkeeper”) regarding violations of the Clean Water Act (also referred to herein as the “Act”) occurring at Arcadia Products, LLC’s facilities located at 2301 E Vernon Avenue (“Vernon Ave Facility”), 2665 Leonis Blvd (“Leonis Facility”), and 3225 E Washington Blvd (“Washington Facility”), in Vernon, California 90058 (each a “Facility” and collectively, “Facilities”). This letter is being sent to you individually, as the responsible owners and/or operators of the enterprise, and as the registered agent for these entities. Unless otherwise noted, James Schladen, Gerard Munera, Catherine Munera, Emmanuelle VanVleet, Erick Bucklin, Byron Bjork, Michael Kuta, Eric Walter, Michelle Shepston, Amanda Garcia, Daniel Jin, Arcadia, Inc., and Arcadia Products, LLC shall hereinafter be collectively referred to as “Arcadia.” The purpose of this letter is to provide Arcadia with notice of the violations of the Industrial General Permit occurring at the Facilities, including, but not limited to, noncompliant discharges of polluted storm water associated with

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industrial activities from the Facilities into local surface waters.

Arcadia is in ongoing violation of the substantive and procedural requirements of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and National Pollutant Discharge Elimination System (“NPDES”) General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 14-57-DWQ as amended by Order No. 2015-0122-DWQ & Order No. 2018-0028-DWQ incorporating: 1) Federal Sufficiently Sensitive Test Method Ruling; 2) Total Maximum Daily Load (“TMDL”) Implementation Requirements; and 3) Statewide Compliance Options Incentivizing On-Site or Regional Storm Water Capture and Use (collectively “General Permit” or “Permit”).¹

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Act subjects Arcadia to a penalty for all violations occurring during the period commencing five years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of up to \$64,618 per day per violation for all Clean Water Act violations occurring after November 2, 2015, where penalties are assessed on or after January 6, 2023.

In addition to civil penalties, LA Waterkeeper will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)) permits prevailing parties to recover costs and fees, including attorneys’ fees.

The Clean Water Act requires that sixty (60) days prior to the initiation of a citizen-enforcement action under Section 505(a) of the Act (33 U.S.C. § 1365(a)), a citizen enforcer must give notice of its intent to file suit. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the Chief Administrative Officer of the water pollution control agency for the State in which the violations occur. *See* 40 C.F.R. § 135.2. As required by the Act, this letter provides statutory notice of the violations that have occurred, and continue to occur, at the Facilities. 40 C.F.R. § 135.3(a). At the expiration of sixty (60) days from the date of this letter, LA Waterkeeper intends to file suit under Section 505(a) of the Act in federal court against Arcadia for violations of the Clean Water Act and the Permit.

¹ Arcadia most recently submitted a Notice of Intent (“NOI”) to comply with the General Permit for the Vernon Ave Facility on or about February 3, 2016. The Vernon Ave Facility is assigned the Waste Discharge Identification (“WDID”) Number 4 19I021228. Arcadia most recently submitted an NOI to comply with the General Permit for the Leonis Facility on or about May 17, 2018. The Leonis Facility is assigned the WDID Number 4 19I027737. Arcadia most recently submitted an NOI to comply with the General Permit for the Washington Facility on or about February 12, 2015. The Washington Facility is assigned the WDID Number 4 19I009927.

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I. Background.

A. Los Angeles Waterkeeper

LA Waterkeeper is a 501(c)(3) public benefit corporation organized under the laws of California with its main office located in Los Angeles, California. LA Waterkeeper was founded in 1993, and its members live, work, and recreate in and around the Los Angeles area. LA Waterkeeper is dedicated to the preservation, protection, and defense of the inland and coastal waters of Los Angeles County including without limitation the Los Angeles River and its tributaries. To further its mission, LA Waterkeeper actively seeks federal and state implementation of the Clean Water Act. Where necessary, LA Waterkeeper directly initiates enforcement actions on behalf of itself and its members.

Members of LA Waterkeeper own homes and reside in Los Angeles County, and use and enjoy the Los Angeles River, and its tributaries, and the bordering parks, pathways, golf courses and athletic fields. As explained in detail below, Arcadia discharges pollutants into the Los Angeles River in violation of the Clean Water Act and the General Permit. LA Waterkeeper members also use and enjoy the Los Angeles River, including without limitation to bike, boat, kayak, bird watch, ride horses, view wildlife, hike, walk, and run. Additionally, LA Waterkeeper members use the Los Angeles River to engage in scientific study through pollution and habitat monitoring and restoration activities. The unlawful discharge of pollutants from the Facilities into the Los Angeles River impairs LA Waterkeeper members' use and enjoyment of these waters. The unlawful discharge of pollutants from the Facilities requires LA Waterkeeper to expend its limited resources to study and combat pollution from the Facilities. Thus, the interests of LA Waterkeeper and its members have been, are being, and will continue to be adversely affected by Arcadia's failure to comply with the Clean Water Act and the General Permit.

B. The Clean Water Act.

Congress enacted the CWA in 1972 in order to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251. The Act prohibits the discharge of pollutants into United States waters except as authorized by the statute. 33 U.S.C. § 1311; *San Francisco Bay Keeper, Inc. v. Tosco Corp.*, 309 F.3d 1153, 1156 (9th Cir. 2002). The Act is administered largely through the NPDES permit program. 33 U.S.C. § 1342. In 1987, the Act was amended to establish a framework for regulating storm water discharges through the NPDES system. Water Quality Act of 1987, Pub. L. 100-4, § 405, 101 Stat. 7, 69 (1987) (codified at 33 U.S.C. § 1342(p)); *see also Env'tl. Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 840-41 (9th Cir. 2003) (describing the problem of storm water runoff and summarizing the Clean Water Act's permitting scheme). The discharge of pollutants not specifically allowed by a NPDES permit is illegal. *Ecological Rights Found. v. Pacific Lumber Co.*, 230 F.3d 1141, 1145 (9th Cir. 2000).

Much of the responsibility for administering the NPDES permitting system has been delegated to the states. *See* 33 U.S.C. § 1342(b); *see also* Cal. Water Code § 13370 (expressing California's intent to implement its own NPDES permit program). The CWA authorizes states with approved NPDES permit programs to regulate industrial storm water discharges through

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individual permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(b). Pursuant to Section 402 of the Act, the Administrator of the EPA has authorized California's State Board to issue individual and general NPDES permits in California. 33 U.S.C. § 1342.

C. California's General Permit for Storm Water Discharges Associated with Industrial Activities

Facilities discharging, or having the potential to discharge, storm water associated with industrial activities that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a Notice of Intent to Comply ("NOI"). General Permit, Standard Condition XXI.A. These facilities must file their NOIs before the initiation of industrial operations. *Id.*

Facilities must strictly comply with all of the terms and conditions of the General Permit. A violation of the General Permit is a violation of the CWA. The General Permit contains three primary and interrelated categories of requirements: (1) discharge prohibitions, receiving water limitations and effluent limitations; (2) Storm Water Pollution Prevention Plan ("SWPPP") requirements; and (3) self-monitoring and reporting requirements.

Beginning under the General Permit Facilities must submit Exceedance Response Action Plans ("ERA Report") to the State Board outlining effective plans to reduce pollutants if a Facility reports a pollutant above the Numeric Action Level ("NAL"). An annual NAL exceedance occurs when the average of all the analytical results for a parameter from samples taken within a reporting year exceeds the annual NAL value for that parameter. General Permit Section XII.A. An instantaneous maximum NAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL value or are outside of the instantaneous maximum NAL range for pH. *Id.*

The General Permit contains requirements that are specific to the Total Maximum Daily Load ("TMDL") for watersheds and water bodies with U.S. EPA-approved and U.S. EPA-established TMDLs for Dischargers covered by the General Permit. TMDLs relate to the maximum amount of a pollutant that a water body can receive and still attain water quality standards. Dischargers located within a watershed for which a TMDL has been approved by U.S. EPA shall comply with any applicable TMDL-specific permit requirements that are set forth in Attachment E to the General Permit. General Permit, V.C. Dischargers shall compare all sampling and analytical results from each distinct sample to the corresponding instantaneous Numeric Effluent Limitations ("NEL") values in the TMDL Compliance Table E-2. *Id.*, Attachment C at 5. An exceedance of an NEL occurs when two or more analytical results from samples taken for any single parameter within a reporting year exceeds the instantaneous maximum NEL value. *Id.* An exceedance of an NEL is a violation of the General Permit. *Id.*

D. Arcadia's Vernon Ave Facility

Arcadia's Vernon Ave Facility is located at 2301 E Vernon Ave in Vernon, California 90058. According to its SWPPP, last updated May 27, 2022, the Vernon Ave Facility's primary industrial purpose is the design and fabrication of architectural metal products. The SWPPP also states that the Vernon Ave Facility operates Monday through Friday from 5:30 a.m. to 3:00 p.m.

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Information available to LA Waterkeeper indicates that Arcadia conducts industrial activities both indoors and outdoors at the approximately 258,336 square-foot Vernon Ave Facility. Industrial activities at the Vernon Ave Facility include, but are not limited to: fabrication of architectural metal products; metal cutting, grinding, and welding; metal storage; scrap storage; loading/unloading raw, finished, and waste materials; operating forklifts and other vehicles; storing pallets; and storing industrial materials.

According to its SWPPP, Arcadia collects and samples storm water associated with industrial activities at the Vernon Ave Facility at three discharge points, SP 1, SP 2, and SP 3. The SWPPP does not identify how many discharge locations there are at the Vernon Ave Facility, but it does indicate that the sampling locations are representative of storm water runoff from industrial activities of each discharge location. The SWPPP also states that the number of locations to be sample has been reduced due to “substantially similar industrial activities, BMPs, and physical characteristics at each drainage location.” This implies that there are at least three discharge locations at the Vernon Ave Facility. As discussed below the site map does not identify the discharge locations at the Vernon Ave Facility, but the SWPPP states that “stormwater runoff flows southward on-site as it enters various connected storm drains. It leaves the site via underground drainage and flows directly into the municipal storm drain system. From there, the water flows through various MS4 channels and ends up in the Los Angeles River Reach 2.”

The SWPPP suggests that there are three drainage areas at the Vernon Ave Facility. Drainage Management Area 1 is the largest, and is located on the south east side of the Vernon Ave Facility. It receives storm water from loading/unloading areas, trash bins, metal storage areas, scrap storage areas, and areas of vehicle traffic. Drainage Management Area 1 also drains Buildings 6, 7 and 8; the window line and main shipping and receiving buildings, a portion of warehouse building 1, and a portion of office building 3. The site map suggests that there are at least six storm water drains within Drainage Management Area 1, one of which is the sampling location SP 1. The site map suggests that storm water drains from the east and west portions of Drainage Management Area 1 into the center, and then south to SW 1, which is co-located with SP 1. The site map does not identify a discharge location for Drainage Management Area 1, and the SWPPP does not identify one either.

Drainage Management Area 2 is located on the north side of the Vernon Ave Facility, and receives storm water from metal storage areas; scrap storage areas; and areas of vehicle traffic. Drainage Management Area 2 also drains portions of warehouse building 1 and the manufacturing assembly building 2. The site map suggests that there are three storm water drains within Drainage Management Area 2, one of which is the sampling location SP 3. The site map suggests that storm water drains to the west in Drainage Management Area 2 to SW 4, which is co-located with SP 3. The site map does not identify a discharge location for Drainage Management Area 2, and the SWPPP does not identify one either.

Drainage Management Area 3 is located on the southwest side of the Vernon Ave Facility, and receives storm water from the employee break area, and also drains portions of manufacturing building 2 and office building 3. The site map suggests that there is one storm water drain within Drainage Management Area 3, which is also the sampling location SP 2. The

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site map suggests that storm water drains to the south and to the west in Drainage Management Area 2 to SW 2, which is co-located with SP 2. The site map does not identify a discharge location for Drainage Management Area 3, and the SWPPP does not identify one either.

LA Waterkeeper is informed and believes that the Vernon Ave Facility discharges storm water from other areas at the Vernon Ave Facility that are not monitored.

The areas of industrial activities are sources of pollutants at the Vernon Ave Facility. From these drainage areas, the Vernon Ave Facility discharges to municipal storm drains that discharge to the Los Angeles River, and ultimately to the Pacific Ocean (“Impacted Waters”). The Impacted Waters are waters of the United States within the meaning of the Clean Water Act.

E. Arcadia’s Leonis Facility

Arcadia’s Leonis Facility is located at 2665 Leonis Blvd. in Vernon, California 90058. According to its SWPPP, last updated May 4, 2022, the Leonis Facility’s primary industrial purpose is the design and fabrication of window and door metal products. The SWPPP also states that the Leonis Facility operates Monday through Friday from 5:00 a.m. to 3:30 p.m, and on Saturday from 5:00 a.m. to 1:30 p.m.

Information available to LA Waterkeeper indicates that Arcadia conducts industrial activities both indoors and outdoors at the approximately 196,470 square-foot Leonis Facility. Industrial activities at the Leonis Facility include, but are not limited to: fabrication of window and door metal products; metal cutting, grinding, and welding; metal storage; scrap storage; loading/unloading raw, finished, and waste materials; operating forklifts and other vehicles; storing pallets; and storing industrial materials.

According to its SWPPP, Arcadia collects and discharges storm water associated with industrial activities at the Leonis Facility at one discharge point, SP1. The SWPPP states that the number of locations to be sample has been reduced due to “substantially similar industrial activities, BMPs, and physical characteristics at each drainage location.” This implies that there are more than one discharge locations at the Leonis Facility.

The SWPPP suggests that there are two drainage areas at the Leonis Facility. Drainage Management Area 1 is the largest, and is located on the west side of the Leonis Facility. It receives storm water from shipping/receiving areas, roll off containers, metal storage areas, areas of industrial material storage, and areas of vehicle traffic. Drainage Management Area 1 also drains the main production building where the metal cutting and grinding is done. The site map suggests that storm water drains from the east and west portions of northern half of Drainage Management Area 1 into the center, where the map indicates ponding occurs. The southern half of Drainage Management Area 1 is depicted on the site map as draining to the south and to SP1. The site map does not identify where the storm water flows from SP1. However, the SWPPP states, “Storm water runoff from the north and west sides of the building runs southward, where it discharges onto Leonis Blvd. and enters the municipal storm drain system (MS4).”

Drainage Management Area 2 is located on the east side of the Leonis Facility, and receives storm water from the compressor storage area and the employee parking lot. The site map suggests that storm water drains to the south in Drainage Management Area 2 where it

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ponds in the southeast corner of the Leonis Facility. The site map does not identify a discharge location for Drainage Management Area 2. However, the SWPPP states, “Runoff on the east of the building runs southward, puddles in the east parking lot, then overflows onto the pervious train tracks beside Seville Ave. Overflow from here will make it to the MS4. From the MS4, water eventually flows into Los Angeles River Reach 2.”

LA Waterkeeper is informed and believes that the Leonis Facility discharges storm water from other areas at the Leonis Facility that are not monitored.

The areas of industrial activities are sources of pollutants at the Leonis Facility. From these drainage areas, the Leonis Facility discharges to municipal storm drains that discharge to the Impacted Waters.

F. Arcadia’s Washington Facility

Arcadia’s Washington Facility is located at 3225 E Washington Blvd in Vernon, California 90058. According to its SWPPP, last updated May 23, 2022, the Washington Facility’s primary industrial purpose is the design and fabrication of architectural metal products. The SWPPP also states that the Washington Facility operates Monday through Saturday, 24 hours per day.

Information available to LA Waterkeeper indicates that Arcadia conducts industrial activities both indoors and outdoors at the approximately 220,429 square-foot Washington Facility. Industrial activities at the Washington Facility include, but are not limited to: fabrication of architectural metal products; metal cutting; metal storage; oven curing; paint storage; oil storage; spray painting; operation of process tanks used to strip, treat, and clean metal parts; loading/unloading raw, finished, and waste materials; operating forklifts and other vehicles; storing pallets; storing industrial materials, including hazardous wastes; and, operation of a wastewater treatment system.

According to its SWPPP, Arcadia collects and samples storm water associated with industrial activities at the Washington Facility at seven discharge points, Discharge Points 1-3, 5, 6; and, D4 and D7. The SWPPP also states that the number of locations to be sample has been reduced due to “substantially similar industrial activities, BMPs, and physical characteristics at each drainage location.” Discharge points D4 and D7 are apparently not sampled.

The SWPPP suggests that there are six drainage areas at the Washington Facility. Drainage Management Area 1 is located on the west side of the Washington Facility. It receives storm water from trash bins and the trash compactor area. The west wing of the main building, where metal cutting activities occur, extends into Drainage Management Area 1. The site map suggests that storm water drains from the northeast portions of Drainage Management Area 1 to the west to Discharge Point 1, which is co-located with Sample Point 1.

Drainage Management Area 2 is located to the east and north of Drainage Management Area 1, and receives storm water from loading/unloading areas; areas where forklifts are operated; metal storage areas; and from run-on from adjacent facilities. The northwest portion of the main building extends into Drainage Management Area 2. The site map suggests that there is one storm water drain within Drainage Management Area 2, which is identified as Discharge

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Point 2 and Sampling Point 2. The site map does not identify where storm water discharges from Discharge Point 2.

Drainage Management Area 3 is located on the north and east sides of the Washington Facility, and receives storm water from areas where forklifts are operated; metal storage areas; areas where the compressor is stored and operated; and, from run-on from adjacent facilities. The north and east sides of the main building extend into Drainage Management Area 3. The site map suggests that there is one storm water drain to the east of Drainage Management Area 3. The site map suggests that storm water drains to the south and to the east in Drainage Management Area 3 to Discharge Point 3, which is co-located with Sample Point 3.

Drainage Management Area 4 is located at the southeast corner of the Washington Facility and drains a parking lot. The site map suggests that storm water drains generally to the north in Drainage Management Area 4, and discharges at a point identified as D4.

Drainage Management Area 5 is located due west of Drainage Management Area 4, and drains areas of the Washington Facility where forklifts are operated. A smaller building, in which metal cutting takes place, is located within Drainage Management Area 5. The south sides of the main building, where hazardous materials and wastes are stored, and where the treatment system within the containment area are located, are also situated within Drainage Management Area 5. The site map suggests that storm water within Drainage Management Area 5 drains to the south to Discharge Point 5, which is co-located with Sample Point 5.

Drainage Management Area 6 is located at the south end of the Washington Facility, between Drainage Management Areas 5 and 1. Drainage Management Area 6 drains loading/unloading areas, and areas where forklifts are operated. The southern portion of the west wing of the main building extends into Drainage Management Area 6. The site map suggests that storm water flows to the south in Drainage Management Area 6 to two discharge points, Discharge Point 6 and D7. Sample Point 6 is co-located with Discharge Point 6.

LA Waterkeeper is informed and believes that the Washington Facility discharges storm water from other areas at the Washington Facility that are not monitored.

The areas of industrial activities are sources of pollutants at the Washington Facility. From these drainage areas, the Washington Facility discharges to municipal storm drains that discharge to the Impacted Waters.

G. Arcadia's Facilities' Required Sampling Parameters

Under the General Permit, Arcadia is required to analyze its samples of storm water for total suspended solids, oil and grease, and pH. General Permit, Section XI.B.6. Facilities must also sample and analyze for additional parameters identified on a facility-specific basis for parameters identified in a pollutant source assessment, for parameters related to receiving water impairments, or as required by the Regional Board. *Id.* According to the Facilities' NOIs, Arcadia operates under Standard Industrial Classification ("SIC") Code 3499 ("Fabricated Metal Products, NEC") and 3471 ("Electroplating, Plating, Polishing, Anodizing and coloring"). Facilities operating under SIC Codes 3499 and 3471 must also analyze storm water samples for

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zinc, nitrate plus nitrite nitrogen, iron, and aluminum. General Permit, Section XI.B.6.d, Table 1.

Pursuant to the Clean Water Act Section 303(d) list of impaired waterbodies, the Los Angeles River, Reach 2 (Carson to Figueroa Street) is impaired for ammonia, copper, indicator bacteria, lead, nutrients, oil, and trash.² The Los Angeles River, Reach 1 (Estuary to Carson Street) is impaired for ammonia, cadmium, copper, cyanide, indicator bacteria, lead, nutrients, pH, trash, and zinc. The Los Angeles River Estuary (Queensway Bay) is impaired for chlordane, DDT, PCBs, toxicity, and trash. San Pedro Bay is listed for chlordane, PCBs, Total DDT, and toxicity. The following impairments exist within the HUC10 watershed: ammonia, cyanide, diazinon, dissolved oxygen, *E. coli* and enterococcus, copper, dissolved copper, zinc, lead, cadmium, nitrates and nitrites, oil and pH. The Facilities' SWPPPs state that of those listed HUC-10 listed impairments, zinc, oil, and trash are associated with the industrial activities at each Facility.

H.

II. Arcadia's Violations of the Act and Permit.

On July 1, 2020, the amendment to the General Permit by Order No. 2018-0028-DWQ became enforceable and updated pollutant-discharge standards including Total TMDL Implementation Requirements and Statewide Compliance Options Incentivizing On-Site or Regional Storm Water Capture and Use. General Permit Attachment E. Any exceedance of a Numeric Effluent Limitation ("NEL") following July 1, 2020 is a per se violation of the General Permit and Clean Water Act. For these Facilities, the applicable NELs include nitrate-nitrogen (8.0 mg/L), nitrite-nitrogen (1.0 mg/L), nitrate plus nitrite nitrogen (8.0 mg/L), zinc (0.159 mg/l), copper (0.06749 mg/L), lead (0.094 mg/L), and cadmium (0.0031 mg/L). In recent reporting years, and also following the implementation of the NEL for the Los Angeles River, Arcadia had numerous exceedances, and LA Waterkeeper alleges that Arcadia will continue to exceed the NEL in the future.

Based on its review of available public documents, LA Waterkeeper is informed and believes that Arcadia, through its operation of the Facilities, is in ongoing violation of both the substantive and procedural requirements of the CWA and the General Permit. These violations are ongoing and continuous. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Arcadia is subject to penalties for violations of the Act since February 21, 2019.

² Additional impairments are proposed in the 2024 Draft 303(d) list, including, but not limited to: for the Los Angeles River, Reach 2 (Carson to Figueroa Street) adding oil and grease and zinc; for Los Angeles River, Reach 1 (Estuary to Carson Street) adding profenofos, iron, oil and grease, toxicity, pyrethroids, fipronil, imidacloprid, bifenthrin, cypermethrin, cyfluthrin, deltamethrin, permethrin, and aluminum; for the Los Angeles Estuary, adding copper, dissolved oxygen, zinc, and indicator bacteria; and for San Pedro Bay adding copper and DDE.

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A. Arcadia Discharges Storm Water Containing Pollutants in Violation of the General Permit's Discharge Prohibitions, Receiving Water Limitations and Effluent Limitations.

Arcadia's storm water sampling results provide conclusive evidence of Arcadia's failure to comply with the General Permit's discharge prohibitions, receiving water limitations and effluent limitations at its Facilities. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1493 (9th Cir. 1987).

1. Applicable Water Quality Standards.

The General Permit requires that storm water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance. General Permit, Discharge Prohibition III.C. The General Permit also prohibits discharges that violate any discharge prohibition contained in the applicable Regional Water Board's Basin Plan or statewide water quality control plans and policies. General Permit, Discharge Prohibition III.D. Furthermore, storm water discharges and authorized non-storm water discharges shall not adversely impact human health or the environment, and shall not cause or contribute to a violation of any water quality standards in any affected receiving water. General Permit, Receiving Water Limitations VI.A, VI.B.

Dischargers are also required to prepare and submit documentation to the Regional Board upon determination that storm water discharges are in violation of the General Permit's Receiving Water Limitations. General Permit, Special Condition XX.B. The documentation must describe changes the discharger will make to its current storm water best management practices ("BMPs") in order to prevent or reduce any pollutant in its storm water discharges that is causing or contributing to an exceedance of water quality standards. *Id.*

The California Toxics Rule ("CTR") is an applicable water quality standard under the Permit, the violation of which is a violation of Permit conditions. *Cal. Sportfishing Prot. Alliance v. Chico Scrap Metal, Inc.*, 2015 U.S. Dist. LEXIS 108314, *21 (E.D. Cal. 2015). CTR establishes numeric receiving water limits for toxics pollutants in California surface waters. 40 C.F.R. § 131.38. The CTR establishes a numeric limit for at least some of the pollutants discharged by Arcadia: zinc – 0.12 mg/L (maximum concentration); copper – 0.013 mg/L (maximum concentration); lead – 0.065 mg/L (maximum concentration); and, arsenic – 0.34 mg/L (maximum concentration).

The Water Quality Control Plan for the Los Angeles Region ("Basin Plan") sets forth water quality standards and prohibitions applicable to Arcadia's storm water discharges from its Facilities. The Basin Plan includes a narrative toxicity standard which states that "(a)ll waters shall be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life." The Basin Plan's Water Quality Standards require narrower pH range of 6.5 – 8.5 pH units for inland surface waters such as the Los Angeles River.

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2. Applicable Effluent Limitations.

Dischargers are required to reduce or prevent pollutants in their storm water discharges through implementation of best available technology economically achievable (“BAT”) for toxic and nonconventional pollutants and best conventional pollutant control technology (“BCT”) for conventional pollutants. General Permit, Effluent Limitation V.A. Conventional pollutants include total suspended solids, oil & grease, pH, biochemical oxygen demand and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. 40 C.F.R. §§ 401.15-16.

Under the General Permit, benchmark levels established by the EPA (“EPA benchmarks”) and Numeric Action Levels (“NAL”) serve as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite BAT and BCT. *Santa Monica Baykeeper v. Kramer Metals*, 619 F. Supp. 2d 914, 920, 923 (C.D. Cal 2009); General Permit, Exceedance Response Action XII.A.

The following EPA benchmarks have been established for pollutants discharged by Arcadia: total suspended solids – 100 mg/L; pH – 6.0-9.0 s.u.; zinc – 0.132 mg/L;³ aluminum – 1.1 mg/L; lead – 0.082 mg/L; arsenic – 0.15 mg/L; nitrate and nitrite nitrogen – 0.68 mg/L; and, copper – 0.00519 mg/L. The following Annual NALs have been established for pollutants discharged by Arcadia: total suspended solids – 100 mg/L; oil & grease – 15.0 mg/L; zinc – 0.26 mg/L; aluminum – 0.75 mg/L; nitrate plus nitrite nitrogen – 0.68 mg/L; arsenic – 0.15 mg/L; lead – 0.262 mg/L; iron – 1.0 mg/L; and, copper – 0.0332 mg/L. Additionally, the following instantaneous NALs have been established for pollutants discharged by Arcadia: pH – 6.0-9.0 s.u.; total suspended solids – 400 mg/L; and oil & grease – 25.0 mg/L.

The General Permit also requires a permittee whose discharges violate the General Permit’s Receiving Water Limitations or water quality standards, such as, NALs, TMDLs, TNALs, and NELs to implement additional BMPs or other control measures that are tailored to that facility in order to attain compliance with the receiving water limitation. A discharger that is notified by a Regional Board or who determines the discharge is causing or contributing to an exceedance of a water quality standard must comply with the Water Quality Based Corrective Action in Section XX.B of the General Permit and report to the Regional Board regarding the same. General Permit, Section XX.B. As noted above, the NELs established numeric limits for some of the pollutants discharged by Arcadia: nitrate-nitrogen – 8.0 mg/L, nitrite-nitrogen – 1.0 mg/L, nitrate plus nitrite nitrogen – 8.0 mg/L, zinc – 0.159 mg/L, lead – 0.094 mg/L, and copper 0.06749 mg/L.

³ The zinc freshwater benchmark is hardness dependent. This benchmark is based on a hardness range of 100-124.99 mg/L.

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3. Arcadia's Storm Water Sample Results

As detailed above, the Vernon Ave Facility SWPPP describes at least three (3) discharge points; the Leonis Facility SWPPP describes one (1) discharge point; and, the Washington Facility SWPPP describes at least seven (7) discharge points, though it has only ever sampled five (5) of these points. Storm water discharged from the Facilities flows into the municipal separate storm sewer system to the Impacted Waters.

Except as provided in Section XI.C.4 of the General Permit, samples shall be collected from each drainage area at all discharge locations. The samples must be: a) representative of storm water associated with industrial activities and any commingled authorized non-storm water discharges; or, b) associated with the discharge of contained storm water. At this time, LA Waterkeeper is unable to determine if storm water from the sampling points at the Facilities are representative of industrial storm water at each Facility.

The following discharges of pollutants from the Facilities have violated the discharge prohibitions, receiving water limitations and/or effluent limitations of the Permit:

a. Discharge of Storm Water Containing Zinc at Concentrations in Excess of Applicable Water Quality Standards

Date	Discharge Point - Facility	Parameter	Concentration in Discharge (mg/L)	Numeric Effluent Limitation (mg/L)	CTR & EPA Benchmark (mg/L)	NAL (mg/L)
5/16/2019	SP1 – Leonis	Zn	0.13	0.159	0.12	0.26
11/27/2019	SP1 – Leonis	Zn	0.41	0.159	0.12	0.26
11/27/2019	Sample 2 – Wash.	Zn	0.53	0.159	0.12	0.26
11/27/2019	Sample 1 – Wash.	Zn	0.5	0.159	0.12	0.26
11/27/2019	Sample 3 – Wash.	Zn	0.4	0.159	0.12	0.26
11/27/2019	Sample 4 – Wash.	Zn	0.3	0.159	0.12	0.26
3/10/2020	SP1 – Leonis	Zn	0.25	0.159	0.12	0.26
3/12/2020	Sample 3 – Wash.	Zn	0.29	0.159	0.12	0.26
3/12/2020	Sample 2 – Wash.	Zn	0.24	0.159	0.12	0.26
3/12/2020	Sample 1 – Wash.	Zn	0.17	0.159	0.12	0.26
3/16/2020	Sample 4 – Wash.	Zn	0.36	0.159	0.12	0.26
3/16/2020	Sample 3 – Wash.	Zn	0.22	0.159	0.12	0.26
4/6/2020	Sample 2 – Wash.	Zn	0.23	0.159	0.12	0.26
4/6/2020	Sample 3 – Wash.	Zn	0.16	0.159	0.12	0.26
4/6/2020	Sample 1 – Wash.	Zn	0.15	0.159	0.12	0.26
12/28/2020	SP1 – Leonis	Zn	0.23	0.159	0.12	0.26
1/28/2021	Sample 3 – Wash.	Zn	0.13	0.159	0.12	0.26
1/30/2021	Outfall 2 - Vernon	Zn	0.23	0.159	0.12	0.26

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Date	Discharge Point - Facility	Parameter	Concentration in Discharge (mg/L)	Numeric Effluent Limitation (mg/L)	CTR & EPA Benchmark (mg/L)	NAL (mg/L)
1/30/2021	Outfall 3 – Vernon	Zn	0.23	0.159	0.12	0.26
1/30/2021	Outfall 1 - Vernon	Zn	0.22	0.159	0.12	0.26
3/3/2021	SP1 – Leonis	Zn	0.58	0.159	0.12	0.26
3/10/2021	Sample 3 – Wash.	Zn	0.34	0.159	0.12	0.26
3/10/2021	Sample 1 – Wash.	Zn	0.27	0.159	0.12	0.26
3/10/2021	Sample 4 – Wash.	Zn	0.14	0.159	0.12	0.26
3/15/2021	Sample 2 – Wash.	Zn	0.4	0.159	0.12	0.26
3/15/2021	Sample 1 – Wash.	Zn	0.2	0.159	0.12	0.26
3/15/2021	Sample 4 – Wash.	Zn	0.17	0.159	0.12	0.26
3/15/2021	Sample 3 – Wash.	Zn	0.14	0.159	0.12	0.26
10/25/2021	SP1 – Leonis	Zn	0.2	0.159	0.12	0.26
10/25/2021	Sample 2 – Wash.	Zn	0.17	0.159	0.12	0.26
10/25/2021	Sample 1 – Wash.	Zn	0.15	0.159	0.12	0.26
10/25/2021	Sample 3 – Wash.	Zn	0.13	0.159	0.12	0.26
12/10/2021	Outfall 2 – Vernon	Zn	0.44	0.159	0.12	0.26
12/10/2021	Outfall 1 – Vernon	Zn	0.42	0.159	0.12	0.26
12/10/2021	Outfall 3 – Vernon	Zn	0.36	0.159	0.12	0.26
3/28/2022	SP1 – Leonis	Zn	0.69	0.159	0.12	0.26
3/28/2022	Sample 4 – Wash.	Zn	0.44	0.159	0.12	0.26
12/11/2022	Sample 3 – Wash.	Zn	0.74	0.159	0.12	0.26
12/11/2022	Sample 1 – Wash.	Zn	0.23	0.159	0.12	0.26
12/11/2022	Sample 2 – Wash.	Zn	0.21	0.159	0.12	0.26
12/11/2022	Sample 4 – Wash.	Zn	0.15	0.159	0.12	0.26
1/5/2023	Sample 3 – Wash.	Zn	0.51	0.159	0.12	0.26
1/5/2023	Sample 5 – Wash.	Zn	0.4	0.159	0.12	0.26
1/5/2023	Sample 2 – Wash.	Zn	0.19	0.159	0.12	0.26
1/5/2023	Sample 4 – Wash.	Zn	0.17	0.159	0.12	0.26

**b. Discharge of Storm Water Containing Copper at
Concentrations in Excess of Applicable Water Quality
Standards**

Date	Discharge Point - Facility	Parameter	Concentration in Discharge (mg/L)	Numeric Effluent Limitation (mg/L)	CTR (mg/L)	EPA Benchmark (mg/L)	NAL (mg/L)
5/4/2023	SP1 - Leonis	Cu	0.0959	0.06749	0.013	0.00519	0.0332

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c. Discharge of Storm Water Containing pH Violating Applicable Water Quality Standards

Date	Discharge Point - Facility	Parameter	pH of Discharge (s.u.)	NAL & EPA Benchmark (s.u.)	Basin Plan (s.u.)
3/6/2019	SP1 – Leonis	pH	6.2	6.0 – 9.0	6.5 – 8.5
5/16/2019	SP1 – Leonis	pH	6.2	6.0 – 9.0	6.5 – 8.5
11/27/2019	SP1 – Leonis	pH	6.2	6.0 – 9.0	6.5 – 8.5
3/10/2020	SP1 – Leonis	pH	6.2	6.0 – 9.0	6.5 – 8.5
3/16/2020	Sample 1 – Wash.	pH	6.3	6.0 – 9.0	6.5 – 8.5
4/7/2020	SP1 – Leonis	pH	6.2	6.0 – 9.0	6.5 – 8.5
12/28/2020	SP1 – Leonis	pH	6.2	6.0 – 9.0	6.5 – 8.5
12/28/2020	Sample 1 – Wash.	pH	6.3	6.0 – 9.0	6.5 – 8.5
3/15/2021	Sample 4 – Wash.	pH	6	6.0 – 9.0	6.5 – 8.5
12/30/2021	Outfall - Vernon 3	pH	6.3	6.0 – 9.0	6.5 – 8.5
12/11/2022	Sample 3 – Wash.	pH	6.4	6.0 – 9.0	6.5 – 8.5
3/24/2023	Outfall 2 – Vernon	pH	6.3	6.0 – 9.0	6.5 – 8.5
3/24/2023	Outfall 3 – Vernon	pH	6.3	6.0 – 9.0	6.5 – 8.5
1/22/2024	SP1 – Leonis	pH	6.2	6.0 – 9.0	6.5 – 8.5

d. Discharge of Storm Water Containing Total Suspended Solids at Concentrations in Excess of Applicable Water Quality Standards

Date	Discharge Point - Facility	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark/NAL (mg/L)
3/16/2020	Sample 4 – Wash.	TSS	190	100
4/6/2020	Sample 1 – Wash.	TSS	105	100
4/7/2020	SP1 – Leonis	TSS	112	100

e. Discharge of Storm Water Containing Aluminum at Concentrations in Excess of Applicable Water Quality Standards

Date	Discharge Point - Facility	Parameter	Concentration in Discharge (mg/L)	NAL (mg/L)	EPA Benchmark (mg/L)
11/27/2019	Sample 1 – Wash.	Al	1.4	0.75	1.1
11/27/2019	Sample 3 – Wash.	Al	1.1	0.75	1.1
11/27/2019	Sample 4 – Wash.	Al	0.81	0.75	1.1
11/27/2019	Sample 2 – Wash.	Al	0.78	0.75	1.1

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Date	Discharge Point - Facility	Parameter	Concentration in Discharge (mg/L)	NAL (mg/L)	EPA Benchmark (mg/L)
3/12/2020	Sample 3 – Wash.	Al	1.2	0.75	1.1
3/12/2020	Sample 2 – Wash.	Al	1.1	0.75	1.1
3/16/2020	Sample 1 – Wash.	Al	0.85	0.75	1.1
4/6/2020	Sample 1 – Wash.	Al	0.76	0.75	1.1
3/10/2021	Sample 4 – Wash.	Al	3.2	0.75	1.1
3/10/2021	Sample 1 – Wash.	Al	0.85	0.75	1.1
3/10/2021	Sample 2 – Wash.	Al	0.84	0.75	1.1
3/15/2021	Sample 4 – Wash.	Al	2	0.75	1.1
3/15/2021	Sample 2 – Wash.	Al	1.4	0.75	1.1
3/15/2021	Sample 1 – Wash.	Al	1.2	0.75	1.1
10/25/2021	Sample 4 – Wash.	Al	1.2	0.75	1.1
12/14/2021	Sample 4 – Wash.	Al	0.88	0.75	1.1
3/28/2022	SP1 – Leonis	Al	2.3	0.75	1.1
12/11/2022	Sample 5 – Wash.	Al	0.78	0.75	1.1

f. Discharge of Storm Water Containing Iron at Concentrations in Excess of Applicable Water Quality Standards

Date	Discharge Point - Facility	Parameter	Concentration in Discharge (mg/L)	EPA Benchmark and NAL (mg/L)
3/12/2020	Sample 2 – Wash.	Fe	1.1	1.0
3/12/2020	Sample 4 – Wash.	Fe	1.04	1.0
4/6/2020	Sample 2 – Wash.	Fe	1.38	1.0
4/6/2020	Sample 3 – Wash.	Fe	1.31	1.0
4/6/2020	Sample 1 – Wash.	Fe	1.13	1.0
3/15/2021	Sample 4 – Wash.	Fe	2.27	1.0
3/15/2021	Sample 1 – Wash.	Fe	1.59	1.0
3/28/2022	SP1 – Leonis	Fe	3.04	1.0

g. Arcadia's Sample Results Are Evidence of Violations of the General Permit

Arcadia's sample results demonstrate violations of the Permit's discharge prohibitions, receiving water limitations and effluent limitations set forth above. LA Waterkeeper is informed and believes that Arcadia has known that its storm water contains pollutants at levels exceeding applicable water quality standards since at least February 21, 2019, including at least forty-five exceedances of water quality standards for zinc (twenty-four of which are above the NEL); one exceedance of water quality standards for copper (which was above the NEL); fourteen

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exceedances of water quality standards for pH; three exceedances of water quality standards for total suspended solids; eighteen exceedances of water quality standards for aluminum; and, eight exceedances of water quality standards for iron. In addition, Arcadia failed to collect the required number of samples at each Facility during the Relevant Period, and had they collected all required samples, they would have likely reported even more exceedances of the water quality standards discussed above.

LA Waterkeeper alleges that such violations occur each time storm water discharges from the Facilities. **Attachment A** hereto, sets forth the specific rain dates on which LA Waterkeeper alleges that Arcadia has discharged storm water containing impermissible levels of zinc, copper, total suspended solids, pH, iron, and aluminum in violation of the General Permit. General Permit, Discharge Prohibitions III.C and III.D; Receiving Water Limitations VI.A, VI.B; Effluent Limitations V.A and V.C.

4. Arcadia Has Failed to Implement BAT and BCT

Dischargers must implement BMPs that fulfill the BAT/BCT requirements of the CWA and the General Permit to reduce or prevent discharges of pollutants in their storm water discharges. General Permit, Effluent Limitation V.A. To meet the BAT/BCT standard, dischargers must implement minimum BMPs and any advanced BMPs set forth in the General Permit's SWPPP Requirements provisions where necessary to reduce or prevent pollutants in discharges. *See* General Permit, Sections V, X.H.1-2.

Arcadia has failed to implement and maintain the minimum BMPs required by the General Permit as evidenced by the exceedances identified above. Specifically, Arcadia has failed to comply with the following: good housekeeping requirements, preventive maintenance requirements; spill and leak prevention and response requirements; material handling and waste management requirements; erosion and sediment controls; employee training and quality assurance; and record keeping. Permit, Section X.H.1(a-g).

Arcadia has further failed to implement advanced BMPs necessary to reduce or prevent discharges of pollutants in its storm water sufficient to meet the BAT/BCT standards, including: exposure minimization BMPs; containment and discharge reduction BMPs; treatment control BMPs; or other advanced BMPs necessary to comply with the General Permit's effluent limitations. General Permit, Sections X.H.2. Arcadia's own storm water sampling results are further evidence of its failure to implement BMPs that meet the BAT/BCT standards. In reporting years identified below, Arcadia has exceeded the annual NAL for zinc, copper, aluminum, and iron:

Reporting Year – Facility	Pollutant	Average Pollutant Concentration	Numeric Action Level (Annual)
2020-2021 – Leonis	Zinc	0.30 mg/L	0.26 mg/L
2021-2022 – Leonis	Aluminum	1.28 mg/L	0.75 mg/L
2021-2022 – Leonis	Zinc	0.45 mg/L	0.75 mg/L
2021-2022 – Leonis	Iron	1.71 mg/L	1.0 mg/L

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2022-2023 – Leonis	Copper	0.0959 mg/L	0.0332 mg/L
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While the Vernon Ave Facility reported NEL exceedances of zinc in the 2020-2021 and 2021-2022 reporting years, Arcadia did not prepare a Water Quality Based Corrective Action Report (“CAR”) as required by General Permit Section XX.B. The SWPPP for the Vernon Ave Facility was revised on May 27, 2022, but the identified revisions do not address the NEL exceedances or identify additional BMPs designed to reduce zinc in discharges from the Vernon Street Facility. While the Vernon Ave Facility’s storm water data for the 2022-2023 reporting year did not report any NEL exceedances, there was only one of the required four samples collected. Because of Arcadia’s failure to adequately monitor their storm water discharges at the Vernon Ave Facility, as well as their failure to design and implement new BMPs to address the NEL exceedances of zinc at the Vernon Ave Facility - as evidenced by their failure to prepare a CAR in response to the NEL exceedances and their failure to update the SWPPP - Arcadia has failed to implement BAT/BCT and the Vernon Ave Facility will continue to discharge storm water containing pollutants in concentrations that exceed NELs.

The Leonis Facility similarly reported NEL exceedances of zinc in the 2020-2021 and 2021-2022 reporting years. While Arcadia did not prepare a CAR in response to the 2020-2021 NEL exceedances, they did prepare one in response to the 2021-2022 NEL exceedances.

The CAR purports to evaluate the sources of zinc at the Leonis Facility and to evaluate whether the BMPs described in the Leonis Facility’s SWPPP have been effective at reducing or preventing zinc pollution. The CAR further purports to assess the Leonis Facility’s SWPPP and its implementation to determine whether additional BMPs or SWPPP implementation measures are necessary to reduce or prevent zinc in the Leonis Facility’s discharges from exceeding the General Permit’s NELs.

The CAR identifies the following BMPs that were to be implemented at the Leonis Facility to address zinc pollution:

- The stormwater drains need to be inspected on weekly basis to check for sediments that is collected due to soil erosion or sediments from the stormwater runoff.
- The cracked asphalt, and broken concrete surface area on the southeast side of the property shall be repaired to prevent the accumulation of dirt and sediments.
- The truck yard area is to be cleaned of dust and debris on weekly basis. A weekly log on cleaning and maintenance activities shall be kept onsite.
- The unsurfaced portion of the truck yard area shall be covered with gravel to prevent washing out of the dirt and potential soil erosion.
- A site inspection needs to be conducted after each rainstorm to assure that there are no areas of soil erosion, potholes, and loose end soil sediments. Any or all areas with potholes are to be fixed within 24 hours. Areas of soil erosion or loose end soil shall be re-compacted and covered with gravel within 5 business days.
- A written log must be kept onsite describing the observation, and the Best Practice Management (BMP) measures that were implemented.
- The truck yard shall be inspected on a weekly basis to check on the truck’s oil leaks, and

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darkened spots on the ground. If any oil leak is observed, an oil pan is to be placed under the leaking truck immediately, and the truck owner shall be informed within 24 hours to remove the truck, and fix the leak.

- The darkened patches of soil shall be removed and disposed of properly. The spots or the area shall be covered with clean soil, re-compacted, and covered with gravel.
- All, or any open container in the truck yard area shall be fully covered and labeled. All metal parts stored in the truck yard or beneath the platforms are to be removed, or fully covered with plastic sheeting.
- The rain gutters and the warehouse building metal sheets covering that appear worn off or rusty are to be cleaned and repainted with anti-corrosion coating.

The CAR states that the Leonis Facility SWPPP was updated to reflect the new corrective action measures described above.

While the Leonis Facility's storm water data for the 2022-2023 and 2023-2024 reporting years did not report any NEL exceedances, there was only one of the required four samples collected in each reporting year. Arcadia's failure to adequately monitor their storm water discharges from the Leonis Facility is an indication that they have failed to implement BAT/BCT. Based on a review of the BMPs that have been purportedly implemented, it is likely that the Leonis Facility will continue to discharge storm water containing pollutants in concentrations that exceed NELs.

The Washington Facility has reported NEL exceedances for zinc in the 2020-2021, 2021-2022, and 2022-2023 reporting years. Arcadia prepared a CAR, dated October 2022, for only the 2021-2022 reporting year NEL exceedances. This same CAR was again submitted to SMARTS in May 2023.

The CAR purports to evaluate the sources of zinc at the Washington Facility and to evaluate whether the BMPs described in the Washington Facility's SWPPP have been effective at reducing or preventing zinc pollution. The CAR further purports to assess the Washington Facility's SWPPP and its implementation to determine whether additional BMPs or SWPPP implementation measures are necessary to reduce or prevent zinc in the Washington Facility's discharges from exceeding the General Permit's NELs.

The CAR identifies the following BMPs that were to be implemented at the Washington Facility to address zinc pollution:

- The stormwater drains need to be inspected on weekly basis during the wet season and on monthly basis during the dry season to check for sediments.
- The cracked asphalt, and broken concrete surface area on the northeast side of the property shall be repaired to prevent the accumulation of dirt and sediments.
- The parking and shipping and receiving area are to be vacuumed and cleaned of dust and debris on weekly basis. A weekly log of cleaning and maintenance activities shall be kept onsite.
- A site inspection needs to be conducted after each rainstorm to assure that there are no

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stored open containers or areas with visible sediments or metal particulates. Any or all areas with, the presence of sediments or metal particulates are to be vacuumed and cleaned within 24 hours.

- A written log must be kept onsite describing the observation, and the Best Practice Management (BMP) measures that were implemented.
- The truck yard shall be inspected on a weekly basis to check on the truck's oil leaks and darkened spots on the ground. If any oil leak is observed, an oil pan is to be placed under the leaking truck immediately, and the truck owner shall be informed within 24 hours to remove the truck, and fix the leak.
- All, or any open container in the truck yard area shall be fully covered and labeled. All metal parts stored in the truck yard or beneath the platforms are to be removed, or fully covered with plastic sheeting.
- The warehouse & production buildings' rain gutters are to be inspected and cleared if clogged with trash and debris. Metallic gutters if rusty are to be cleaned and repainted with anti-corrosion coating.

The CAR states that the Washington Facility SWPPP will be updated to reflect the new corrective action measures described above; however, the SWPPP was never revised and uploaded to SMARTS.

Arcadia has failed to implement BAT/BCT at the Washington Facility because the Washington Facility continues to discharge storm water containing pollutants in concentrations that exceed NELs. Arcadia recorded at least seven (7) NEL exceedances for zinc after the BMPs identified above were purportedly implemented in October 2022.

Each day that Arcadia has failed to develop and implement BAT and BCT at each Facility in violation of the General Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). Arcadia has been in violation of the BAT and BCT requirements at its Facilities every day since at least February 21, 2019.

5. Arcadia Has Failed to Comply with the Monitoring Requirements of the General Permit.

The General Permit requires dischargers to implement a Monitoring Implementation Plan. General Permit, Section X.I. As part of their monitoring plan, dischargers must identify all storm water discharge locations. Permit, Section X.I.2. Dischargers must then conduct monthly visual observations of each drainage area, as well as visual observations during discharge sampling events. General Permit, Section XI.A.1 and 2.

Dischargers must collect and analyze storm water samples from two (2) storm events within the first half of each reporting year (July 1 to December 31) and two (2) storm events during the second half of each reporting year (January 1 to June 3). General Permit, Section XI.B. Section XI.B requires dischargers to sample and analyze during the wet season for basic parameters such as pH, total suspended solids ("TSS") and oil and grease ("O&G"), certain industry-specific parameters set forth in Table 2 of the General Permit, and other pollutants

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likely to be in the storm water discharged from the facility based on the pollutant source assessment. General Permit, Section XI.B.6. Dischargers must submit all sampling and analytical results via SMARTS within thirty (30) days of obtaining all results for each sampling event. General Permit, Section XI.B.11.

Arcadia has failed to develop and implement an adequate Monitoring Implementation Plan for its Facilities, and has thus violated the monitoring requirements of the General Permit. Arcadia has failed to collect the required number of samples for each reporting period. For example, Arcadia failed to collect the required number of samples from the following discharge points during the specified reporting years:

Reporting Year	Discharge Point - Facility	Number of Samples (Collected Required)
2019-2020	Outfall 1 – Vernon	3 4
2019-2020	Outfall 2 – Vernon	3 4
2019-2020	Outfall 3 – Vernon	3 4
2019-2020	SP1 – Leonis	3 4
2019-2020	Washington	4 4 ⁴
2020-2021	Outfall 1 – Vernon	1 4
2020-2021	Outfall 2 – Vernon	1 4
2020-2021	Outfall 3 – Vernon	1 4
2020-2021	SP1 – Leonis	3 4
2020-2021	Washington	4 4 ⁷
2021-2022	Outfall 1 – Vernon	3 4 ⁵
2021-2022	Outfall 2 – Vernon	3 4
2021-2022	Outfall 3 – Vernon	3 4
2021-2022	SP1 – Leonis	2 4
2021-2022	Sample 1 – Wash.	3 4
2021-2022	Sample 2 – Wash.	3 4
2021-2022	Sample 3 – Wash.	3 4
2021-2022	Sample 4 – Wash.	3 4
2022-2023	Outfall 1 – Vernon	1 4
2022-2023	Outfall 2 – Vernon	1 4
2022-2023	Outfall 3 – Vernon	1 4
2022-2023	SP1 – Leonis	1 4
2022-2023	Sample 4 – Wash.	3 4
2022-2023	Sample 5 – Wash.	3 4
2023-2024	Outfall 1 – Vernon	0 2*
2023-2024	Outfall 2 – Vernon	0 2*
2023-2024	Outfall 3 – Vernon	0 2*

⁴ While Arcadia collected four samples this reporting year, only one was collected in the first half. General Permit, Section XI.B.2.

⁵ All three of these samples were taken during the first half of the reporting year, and no samples were collected in the second half. *Id.*

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2023-2024	SP1 – Leonis	0 2*
2023-2024	Sample 1 – Wash.	0 2*
2023-2024	Sample 2 – Wash.	0 2*
2023-2024	Sample 3 – Wash.	0 2*
2023-2024	Sample 4 – Wash.	0 2*
2023-2024	Sample 5 – Wash.	0 2*

*Two samples were required to be collected in the first half of the 2023-2024 reporting period, which ended December 31, 2023. As of the date of this letter, Arcadia has failed to collect any samples in the second half of the 2023-2024 reporting period, except for one sample collected at the Leonis Facility.

Arcadia has also failed to analyze each of its storm water samples for each parameter that is likely to be present at the Facilities. Specifically, each Facility is identified as operating under SIC Code 34XX, which requires all samples to be analyzed for nitrate plus nitrite nitrogen, among other parameters. Section XI.B.6.d, Table 1. Separate NELs for nitrate and nitrite have been established, and so the Facility is required to analyze all samples for each of those parameters separately as well. Arcadia has failed to analyze samples of storm water at the Facilities for nitrate plus nitrite nitrogen, and nitrate and nitrite separately, in all but one reporting year, and then only one sample was analyzed at the Vernon Ave Facility in the 2022-2023 reporting year.

In addition, certain parameters, such as copper and arsenic have been analyzed in the past – and, in the case of copper, detected at levels exceeding the NEL – yet have not been included in the vast majority of samples collected from the Facilities. Pollutants that are likely to be present at the Facilities are required to be included in the sampling analysis. Section XI.B.6.c.

Arcadia has also failed to collect samples at each discharge location. For example, at the Washington Facility, there are two identified discharge points, D4 and D7, that are not sampled, and DP5 was only sampled beginning 2022-2023. The Washington Facility SWPPP claims a representative sampling reduction, but the information required under the General Permit, section XI.C.4.b is not included.

Each day that Arcadia has failed to develop and implement an adequate Monitoring Implementation Plan at each of its Facilities is a separate and distinct violation of the Act and Permit. Arcadia has been in violation of the Monitoring requirements every day since at least February 21, 2019.

6. Arcadia Has Failed to Develop and Implement an Adequate Storm Water Pollution Prevention Plan.

The General Permit requires dischargers to develop and implement a site-specific SWPPP. General Permit, Section X.A. The SWPPP must include, among other elements: (1) the facility name and contact information; (2) a site map; (3) a list of industrial materials; (4) a description of potential pollution sources; (5) an assessment of potential pollutant sources; (6) minimum BMPs; (7) advanced BMPs, if applicable; (8) a monitoring implementation plan; (9)

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annual comprehensive facility compliance evaluation; and, (10) the date that the SWPPP was initially prepared and the date of each SWPPP amendment, if applicable. *See id.*

Dischargers must revise their SWPPP whenever necessary and certify and submit via the Regional Board's Storm Water Multiple Application and Report Tracking System ("SMARTS") their SWPPP within 30 days whenever the SWPPP contains significant revisions(s); and, certify and submit via SMARTS for any non-significant revisions not more than once every three (3) months in the reporting year. General Permit, Section X.B.

LA Waterkeeper's investigation indicates that Arcadia has been operating with an inadequately developed and implemented SWPPP at each of its Facilities in violation of General Permit requirements. Arcadia has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary, has failed to develop and implement an adequate site map, and has failed to describe and evaluate the industrial materials and potential pollutant sources at each Facility, all of which have resulted in the Facilities' numerous continuing effluent limitation violations.

Each day Arcadia failed to develop and implement an adequate SWPPP at its Facilities is a violation of the General Permit. The SWPPP violations described above were at all times in violation of Section X of the General Permit. Arcadia has been in violation of these requirements at each Facility every day since at least February 21, 2019.

7. Arcadia Has Failed to Submit Timely, True and Correct Reports.

Section XVI of the Permit requires dischargers to submit an Annual Report by July 15th of each reporting year to the Regional Board. The Annual Report must be signed and certified by a discharger's Legally Responsible Person, or Duly Authorized Representative. General Permit, Sections XVI.A, XXI.K. The Annual Report must include a compliance checklist, certifying compliance with the General Permit and an explanation of any non-compliance. General Permit, Section XVI.B.

The General Permit also requires dischargers who exceed NELs and NALs to comply with Water Quality Based Corrective Action, Section XX.B, and Exceedance Response Actions, Section XII, respectively.

LA Waterkeeper's investigations indicate that Arcadia has submitted incomplete Annual Reports and purported to comply with the Permit despite significant noncompliance at its Facilities. For example, Annual Reports for the Vernon Ave Facility between 2019 and 2022 certify, under penalty of perjury, that Arcadia was unable to collect all required samples because of inadequate rainfall. The 2022-2023 Annual Report for the Vernon Ave Facility certifies that the Facility collected the required number of samples for that reporting period, when in reality, they only collected one sample from one QSE. Moreover, the Annual Reports state that the Vernon Ave Facility does not reduce the number or sample locations pursuant to a sampling reduction justification – yet the SWPPP contradicts this certification.

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The Leonis Facility's Annual Reports are similarly deficient. Between 2019 and 2022 they each certify, under penalty of perjury, that Arcadia was unable to collect all required samples because of inadequate rainfall. The 2022-2023 Annual Report for the Leonis Facility certifies that the Facility collected the required number of samples for that reporting period, when in reality, they only collected one sample from one QSE. Moreover, the Annual Reports state that the Leonis Facility does not reduce the number or sample locations pursuant to a sampling reduction justification – yet the SWPPP contradicts this certification.

The Washington Facility's Annual Reports are similarly deficient. They identify only five storm water discharge locations at the Facility, despite the SWPPP identifying at least seven. Moreover, the Annual Reports state that the Washington Facility does not reduce the number or sample locations pursuant to a sampling reduction justification – yet the SWPPP contradicts this certification.

Furthermore, Arcadia has failed to accurately report their noncompliance to the Regional Board, and has failed to submit all required reports pursuant to Sections XX.B and XII in response to their numerous exceedances of both NELs and NALs. Further, Arcadia's CARs and ERA reports that they did submit were inadequate, as evidenced by the continued exceedances of zinc, even after apparently full implementation of the BMPs described therein. Each day Arcadia failed to submit timely, true and correct reports is a separate violation of the Clean Water Act. Arcadia has been in violation of these requirements at its Facilities every day since at least February 21, 2019.

III. Persons Responsible for the Violations.

LA Waterkeeper puts Arcadia on notice that they are the persons and entities responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, LA Waterkeeper puts Arcadia on formal notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Parties.

The name, address and telephone number of each of the noticing parties is as follows:

Bruce Reznik, Executive Director
Los Angeles Waterkeeper
360 E 2nd Street Suite 250
Los Angeles, CA 90012
(310) 394-6162

V. Counsel.

LA Waterkeeper has retained legal counsel to represent it in this matter. Please direct all communications to:

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William N. Carlon
Law Office of William Carlon
437 Post Street
Napa, CA 94559
(530) 5144115
william@carlonlaw.com

VI. Conclusion

LA Waterkeeper believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. We intend to file a citizen suit under Section 505(a) of the CWA against Arcadia and their agents for the above-referenced violations upon the expiration of the 60-day notice period. If you wish to pursue remedies in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

A handwritten signature in black ink, appearing to read 'William Carlon', is written over a horizontal line.

William N. Carlon
Law Office of William Carlon
Counsel for LOS ANGELES
WATERKEEPER

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SERVICE LIST

VIA CERTIFIED MAIL

Michael Regan, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Martha Guzman, Regional Administrator
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

Merrick B. Garland, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Eric Oppenheimer, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812

Susana Arredondo, Executive Officer
Los Angeles Regional Water Quality Control Board
320 W 4th Street, #200
Los Angeles, CA 90013

ATTACHMENT A**Notice of Intent to File Suit, Arcadia
Significant Rain Events,* February 21, 2019 – February 21, 2024**

March 2, 2019	December 27, 2021	August 21, 2023
March 6, 2019	December 29, 2021	November 15, 2023
May 16, 2019	December 30, 2021	December 19, 2023
May 19, 2019	March 28, 2022	December 20, 2023
November 20, 2019	April 21, 2022	December 21, 2023
November 27, 2019	September 9, 2022	December 22, 2023
November 28, 2019	October 12, 2022	December 30, 2023
December 4, 2019	November 2, 2022	January 3, 2024
December 22, 2019	November 8, 2022	January 20, 2024
December 23, 2019	November 9, 2022	January 22, 2024
December 25, 2019	December 2, 2022	February 1, 2024
December 26, 2019	December 4, 2022	February 3, 2024
January 16, 2020	December 11, 2022	February 4, 2024
March 10, 2020	December 12, 2022	February 5, 2024
March 12, 2020	December 27, 2022	February 6, 2024
March 13, 2020	December 31, 2022	February 7, 2024
March 16, 2020	January 1, 2023	February 8, 2024
March 22, 2020	January 4, 2023	February 19, 2024
April 6, 2020	January 5, 2023	February 21, 2024
April 7, 2020	January 9, 2023	
April 9, 2020	January 10, 2023	
April 10, 2020	January 14, 2023	
May 18, 2020	January 15, 2023	
November 7, 2020	January 16, 2023	
December 28, 2020	January 29, 2023	
January 23, 2021	January 30, 2023	
January 25, 2021	February 23, 2023	
January 28, 2021	February 24, 2023	
January 29, 2021	February 25, 2023	
March 3, 2021	February 27, 2023	
March 10, 2021	February 28, 2023	
March 11, 2021	March 10, 2023	
March 15, 2021	March 11, 2023	
July 26, 2021	March 14, 2023	
October 25, 2021	March 15, 2023	
December 14, 2021	March 21, 2023	
December 16, 2021	March 22, 2023	
December 23, 2021	March 29, 2023	
December 24, 2021	March 30, 2023	
December 25, 2021	May 4, 2023	
December 26, 2021	August 20, 2023	

* Significant Rain Events are days where the 24-hour rainfall total was at least 0.1 inches according to publicly available rain and weather data collected at a station located near the Facility.